REMARKS/ARGUMENTS

The present application discloses a method and a system for enhancing streaming operation in a distributed communication system providing communication links between a plurality of stream servers, and a client machine requesting a particular media file. First, a list of stream servers is retrieved. Then, the list of stream servers is evaluated and one of the stream servers on said list is selected as being the best-suited stream server. Finally, streaming from said selected stream server is being initiated.

Reconsideration of the application, as amended, is requested. Claim 1 has been amended by adding the claim element of claim 2 into claim 1. Claim 2 therefore has been canceled. No new matter has been added. Claims 1, 3 – 15 remain in this application.

Claims 1, 3 - 10

In section 2 the Office Action rejects claims 1, 3 – 10 under 35 U.S.C. § 102(e) as being anticipated by US Patent Number 6,112,239 issued to Kenner, et al., herein referred to as Kenner. Applicants have amended claim 1 to overcome this rejection and respectfully traverse this rejection as it pertains to claims 3 – 10. The claim element previously required in claim 2, "retrieving a list of stream servers from a directory service" has been added to independent claim 1. Therefore the 35 U.S.C. § 102(e) rejections should be removed from independent claim 1 and those claims dependent (i.e., claims 3 – 10).

In section 17 of the Office Action, the Examiner rejects claim 2 under 35 U.S.C. § 103 as being unpatentable over Kenner in view of US Patent Publication 2002/0159464 A1 herein referred to as Lewis. Applicants respectfully traverse this rejection. Because the claim element of claim 2 has been added to independent claim 1, and claim 2 being canceled, the arguments infra relate to section 17 but consider claims 1, 3 – 10.

The applicants respectfully submit that the office action improperly relies on Lewis. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference

teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The applicants submit that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Lewis or to combine the teachings of Lewis and Kenner. Lewis does mention a UDDI directory ([0059], lines 1 – 4). However nowhere in Lewis does it teach utilizing a UDDI directory to retrieve a list of stream servers. The invention in Lewis is directed to a single stream server, wherein the single stream server has previously been retrieved. Therefore it is not possible for the scope of Lewis to include multiple stream servers, and consequently Lewis can not teach retrieving a list of stream servers from a directory service. Further Lewis explicitly indicates the actions of the invention provided by the UDDI (Col 5, [0060] – [0063]). These actions include meta-tagging, telephony, and archiving. In reading these explicit actions, the applicants submit, that Lewis does not contemplate utilizing the UDDI to retrieve a list of stream servers. In other words, Lewis utilizes the UDDI in a different manner, for a different purpose, and to solve a different problem than considered by the applicants. Therefore if a person having ordinary skill in the art would combine Lewis with Kenner, the invention as taught by Kenner would consider utilizing the UDDI for meta-tagging, telephony, and archiving and not for retrieving a list of stream servers. Therefore there is no suggestion or motivation in the references to modify Lewis or to combine the teachings of Lewis and Kenner.

In view of the foregoing comments and amendment, the applicants respectfully submit that independent claim 1 is in condition for allowance. Because dependent claims 3 – 10 properly depend on independent claim 1, and that independent claim 1 is in condition for allowance, the applicants argue that claims 1, 3 – 10 are in condition for allowance.

Claims 11 - 14

In section 2 the Office Action rejects claims 11 – 14 under 35 U.S.C. § 102(e) as being anticipated by Kenner. Applicants respectfully traverse this rejection as it pertains to claims 11 – 14.

Independent claim 11 currently requires, "… detecting the data transfer rate between the client machine and the distributed communication system, intercepting a request for streaming a

media file, modifying the streaming request by appending preference information for streaming of the requested media file, and sending the modified streaming request to the stream server selection unit."

Kenner teaches a method and system for a user to effectively find the most efficient delivery/mirror site wherein the delivery site then distributes web content to the user (Col 5, line 52 – 60). Subsequently the particular efficient delivery site is utilized for the delivery of web content to the user for future requests. (Col 5, line 60 – Col 6, line 3). Kenner also teaches utilizing network performance data to effectively predict the most efficient delivery site. (Col 6, line 16 – 39).

Kenner does not teach, "… intercepting a request for streaming a media file," as required by claim 11. The passage, in Kenner, offered by the office action (i.e., Col. 6, lines 31-36) is directed to predicting an improved/efficient delivery site by utilizing network data. Nowhere in this passage, or anywhere else in Kenner, is intercepting a request for streaming a media file described.

Kenner also does not teach, "… modifying the streaming request by appending preference information for streaming of the requested media file," as required by claim 11. The passage, in Kenner, offered by the office action (i.e., Col. 6, lines 37 – 40) is directed to the benefit to the user in utilizing the predicted efficient deliver site. Nowhere in this passage, or anywhere else in Kenner, is modifying the streaming request by appending preference information for streaming of the requested media file described.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Because Kenner does not teach, "… intercepting a request for streaming a media file," or "… modifying the streaming request by appending preference information for streaming of the requested media file," as required by claim 11, Kenner does not anticipate claim 11.

In view of the foregoing comments, the applicants respectfully submit that independent claim 11 is in condition for allowance. Because dependent claims 12 – 14 properly depend on independent claim 11, and that independent claim 11 is in condition for allowance, the applicants argue that claims 12 – 14 are in condition for allowance. Consequently the 35 U.S.C. § 102(e)

rejection should be removed from independent claim 11 and those claims dependent (i.e., claims 12 - 14).

Claim 15

In view of the foregoing comments (described above in the Claim 1, 3 – 10 section) and amendment, the applicants respectfully submit that independent claim 1 is in condition for allowance. Applicants also respectfully submit that though claim 15 is an independent claim, claim 15 requires the process elements recited in allowable independent claim 1. Because independent claim 1 is in condition for allowance, the applicants argue that claim 15 is also in condition for allowance.
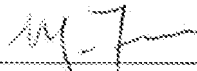
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Attachments (if any)